

REMARKS

In the Office Action dated May 14, 2004, the Examiner: (1) rejects claims 1-23 under 35 U.S.C. § 112, ¶ 2 as being indefinite; (2) rejects claims 22 and 23 under 35 U.S.C. § 102(b) as being anticipated by either Kawahara (U.S. 6,015,635) or Kawahara (EP 785, 588); and (3) objects to claim 2. Applicants respond as follows:

Response to Rejection of Claims 1-23 Under 35 U.S.C. § 112, ¶ 2:

The Examiner rejects claims 1-23 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicants regard as the invention. First, he rejects claim 1 and the claims that depend on it. The Examiner asserts that the phrase “contacting with the respective surfaces of the polymer electrolyte membrane successively” is incomplete. Applicants have amended claim 1 to recite that the applying and contacting is of each of said first catalyst layer and said second catalyst layer with said first surface and said second surface of the polymer electrolyte membrane. Support for this amendment may, for example, be found in claim 1 itself, as well as in the specification at page 4, lines 1-11. Applicants submit that in view of this amendment, claim 1 complies with Section 112 and the rejection should be withdrawn with respect to it and the claims that depend on it. No new matter has been added.

The Examiner also rejects claim 10. He asserts that the phrase “elevated temperature” has indefinite scope. Applicants respectfully submit that phrase “elevated temperature is not indefinite, and its meaning would be readily apparent to persons of ordinary skill in the art. Nevertheless, in the interests of further prosecution, Applicants have amended claim 10 to recite “a temperature of at least 130°C.” Support for this amendment may, for example, be found in the specification on page 8, lines 17-19. Applicants submit that in view of this amendment, the rejection should be withdrawn.

No new matter has been added.

Finally, the Examiner rejects claim 11 because it depends on itself and claim 12 because it depends on claim 11. Applicants have amended claim 11 so that it depends on claim 10. Support for this amendment may, for example, be found in the originally filed claims. In view of this amendment, Applicants submit that claim 11, as well as claim 12, which depends on it, comply with Section 112. No new matter has been added.

Response to Rejection of Claims 22 and 23 Under 35 U.S.C. § 102(b):

The Examiner rejects claims 22 and 23 under 35 U.S.C. § 102(b) as being anticipated by either Kawahara (U.S. 6,015,635) or Kawahara (EP 785,588). Applicants express no opinion as to the merits of the Examiner's rejection. However, in the interest of furthering prosecution, Applicants have cancelled claims 22 and 23.

Response to Objection to Claim 2:

The Examiner objects to claim 2 and suggests that the phrase "further comprising wherein" be deleted and that the phrase "further comprising" be moved to after the word "and" further down in the claim. Applicants have amended the claim in accordance with the Examiner's suggestion in order to overcome this objection. Applicants have also amended claim 13 in order to remove a similar phrase, and made other minor amendments to the claim set. No new matter has been added.

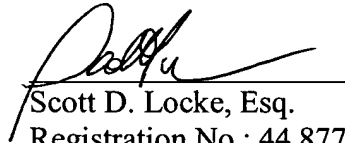
Conclusion

In view of the foregoing amendments and the remarks, reconsideration and allowance are respectfully solicited.

No fee is believed to be due with respect to the filing of this amendment. If any fees are due, please charge Deposit Account No. 11-0171 for such sum accordingly.

If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,


Scott D. Locke, Esq.
Registration No.: 44,877
Attorney for Applicant

Kalow & Springut LLP
Telephone No.: (212) 813-1600